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JUN 24 2005

In re Application of
Stephen J. Benkovic et al.
Application No. 10/615,703
Filed: July 9, 2003
Attorney Docket No. 00-387-P

: **OFFICE OF PETITIONS**
:
: **DECISION ACCORDING STATUS**
: **UNDER 37 CFR 1.47(a)**
:

This decision is in response to the request for reconsideration filed June 16, 2005, (certificate of mail date, June 13, 2005), under 37 CFR 1.47(a), in response to the decision dismissing the petition of June 21, 2004.

The petition is **GRANTED**.

The above-identified application was filed on July 9, 2003, naming Stephen J. Benkovic, Lucy Shapiro, Rachel Wright, Craig Stephens, Lyn Sue Kahng, Anthony Berdis and Irene Lee but without a signed declaration. Accordingly, on December 15, 2003, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration. In response, a petition was filed with a request for a four month extension of time and the oath and declaration signed by inventors Benkovic, Shapiro, Stephens, Kahng, Berdis and Lee only. Petitioners sought status under 37 CFR 1.47(a) based on the fact that after diligent efforts they have been unable to locate joint inventor Wright. A petition filed June 21, 2004 was dismissed in a decision mailed April 11, 2005 because it hadn't been shown that petitioners diligently sought to locate the non-signing inventor in an attempt to have her execute the oath or declaration.

Comes now petitioner with the instant request for reconsideration.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

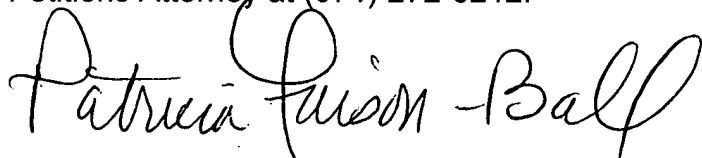
The request for reconsideration bears proof that additional efforts were undertaken to locate the non-signing inventor but those efforts were unsuccessful. The evidence is therefore sufficient to establish diligence as required by the regulation.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Since the petition fee was paid with the original petition filed June 21, 2004, no additional petition fees for the request for reconsideration are required. Petitioner's deposit account no. 13-2490 will be credited in the amount of \$200.00 for the

This matter is being referred to Technology Center 1639 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with large, connected letters.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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JUN 24 2005

OFFICE OF PETITIONS

In re Application of
Stephen J. Benkovic et al.
Reissue Application No. 10/615,703
Filed: July 9, 2003
For: TREATMENT OF BACTERIAL INDUCED DISEASES USING DNA METHYL
TRANSFERASE INHIBITORS

Dear Ms. Wright:

You are named as a joint inventor in the above identified United States reissue patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:

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